

REMARKS

Claims 1 - 10 are pending in the present application. No additional claims fees are believed to be due.

Claims 6, 7, 9 and 10 have been amended to overcome the objection of multiple dependencies.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Claims 1 - 10 remain in the present application.

Claim Objections

Claims 6-10 have been objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend from another multiple dependent claim. See MPEP §608.01(n).

Applicants have herein amended claims 6, 7, 9 and 10 to overcome the objection of multiple dependencies. Consequently, Applicants respectfully assert that this objection is now overcome.

Rejection Under 35 USC §103(a) Over Nease

Claims 1 has been rejected under 35 USC §103(a) as being unpatentable over Nease et al. (US 5,580,411). In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* The Office Action has failed to establish a *prima facie* case of obviousness because there is no motivation to modify the cited reference and the cited reference fails to teach or suggest all of the claim limitations of the claimed invention.

For instance, the subject Office Action suggests that "Nease *et al.* (figure 8) teaches fastening member structure including a member extending in the longitudinal and lateral direction and further being asymmetric with respect to the lateral centerline and symmetric with respect to the longitudinal centerline. While the particular exact measurements are not clearly shown, it would appear that the key asymmetry and symmetry are suggested by the fastening tab of Nease. Any slight change would appear to be obvious over the teaching of Nease."

However, Applicants respectfully assert that Figure 8 actually depicts a series of side panels being cut from a web, not shaped tabs. Such assertion finds exemplary support in both the patent title of "Zero Scrap Method For Manufacturing Side Panels For Absorbent Articles" and the specification at column 11, lines 8 - 12 ("*Varying the die cut pattern 604, to that shown in FIG. 8 or any comparable pattern provides for both fro[nt] and rear side panels. The front side panels 800 and the rear side panels 802 are shown as they are cut from the web material 850 in FIG. 8...*").

In contrast, the present invention is directed to shaped fastening tabs, not shaped side panels. Both Nease and the present invention clearly recognize the difference between a tab and side panel. For instance, Nease makes brief reference to a "tap tab" (see col. 3, lines 9-12 and Figure 1), but then continues to discuss "side panels" throughout most of his patent. Similarly, for instance, the present invention specifically calls-out a shaped tab 51 and an ear (or base) panel 49, as depicted in Figure 1. Furthermore, Claim 1 recites a "base panel and a shaped tab extending laterally from the base panel"; such language explicitly recognizes the existence of two distinct elements (i.e., base panel and shaped tab).

Accordingly, Applicants respectfully assert that the subject Office Action fails to establish a *prima facie* case of obviousness as it relates to Claim 1. As such, Applicants respectfully assert that this obviousness rejection has been overcome.

Rejection Under 35 USC §103(a) Over Nease in view of Provost

Claims 2-5 have been rejected under 35 USC §103(a) as being unpatentable over Nease *et al.* (US 5,580,411) in view of Provost (US 4,670,960). Because Nease does not teach a "shaped tab", Applicants respectfully assert that the reliance upon Nease in this instance is improper. As such, Applicants respectfully assert that the subject Office

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Action fails to establish a *prima facie* case of obviousness as it relates to Claims 2-5. As such, Applicants respectfully assert that this obviousness rejection has been overcome.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under §103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-10 is respectfully requested.

Respectfully submitted,

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